

## CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS

### Addendum No. 3

#### to the

**Final Environmental Impact Report for the Nacimiento Project Water:  
*Delivery Entitlement Contract between the San Luis Obispo County Flood Control and Water  
Conservation District and the County of San Luis Obispo, acting on behalf of County Service  
Area 10, Zone A***

## I. Background and Brief Project Description of the Proposed Project

### *Background*

In 1959, the San Luis Obispo County Flood Control and Water Conservation District (District) entered into an agreement with the Monterey County Flood Control and Water Conservation District (now the Monterey County Water Resources Agency) to secure rights to 17,500 acre feet<sup>1</sup> of water per year from the Nacimiento Reservoir. The Nacimiento Reservoir has a storage capacity of 377,900 acre feet and, in addition to providing water to the District, serves various other purposes such as flood protection, recreational opportunities and groundwater recharge for the Salinas Valley.

The Cities of San Luis Obispo and Paso Robles, the Templeton Community Services District, the Atascadero Mutual Water Company, and the County on behalf of County Service Area 10 Zone A (CSA 10A) (map attached) are the current Nacimiento Project participants. Of the 15,750 acre feet per year of Nacimiento Reservoir water available to the five existing Nacimiento Project participants (1,750 acre feet is reserved for lakeside users), 9,655 acre feet is subscribed, leaving 6,095 acre feet of unallocated water (termed “Reserve Water” in the Water Delivery Entitlement Contracts).

In 2004, the District certified the Nacimiento Project Final Environmental Impact Report for the Nacimiento Project (FEIR) and entered into like Nacimiento Water Project Delivery Entitlement Contracts with the initial participants (Cities of San Luis Obispo and Paso Robles, Templeton Community Services District and Atascadero Mutual Water Company). In 2006, the District subsequently entered into a Water Delivery Entitlement Contract with CSA 10A.

### *Current Proposal*

Article 29, subdivision (B) of the Water Delivery Entitlement Contracts provides for the permanent purchase of Reserve Water by the existing participants. On October 6, 2015, the City of Paso Robles, City of San Luis Obispo, Atascadero Mutual Water Company, and Templeton Community Services District jointly notified the District that they were exercising

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<sup>1</sup> One acre foot of water contains 325,851 gallons

their rights under Article 6, subdivision (D) of the Water Delivery Entitlement Contracts to apply to the District and acquire additional delivery entitlement (jointly the total 6,095 acre feet of Reserve Water) as provided in Article 29 (letter attached).

After receiving the initial participants' October 6, 2015 letter, the District formally notified all of the other participants (CSA 10A) (in accordance with Article 29) as well as the other entities that were considered for a water entitlement in the 2004 FEIR (EIR Entities) (list attached) of the application. On December 8, 2015 the Board of Supervisors (sitting as the Board of the County, not the District) initiated the process to acquire an additional allocation of Nacimiento Project Water on behalf of County Service Area 10A. Two of the EIR Entities (or their successors in interest), namely the SMR Mutual Water Company (Santa Margarita Ranch) and Bella Vista MHP LLC (successor in interest to the Lewis C. Pollard Family Trust, Cayucos), notified the District of their desire to participate in the purchase of Reserve Water. The initial participants have revised their original request so as to accommodate both the CSA 10A and the EIR Entities participation. Table A below shows the proposed distribution of the 6,095 acre feet of Reserve Water.

<b>TABLE A - Nacimiento Reserve Water Project Participant's Share in Acre Feet of Water Per Year</b>				
<b>Participant</b>	<b>Current Entitlement</b>	<b>Change</b>	<b>New Entitlement</b>	<b>Buy In Fee</b>
City of Paso Robles	4,000	2,488	6,488	\$ (450,830)
City of San Luis Obispo	3,380	2,102	5,482	\$ (792,812)
Atascadero Mutual Water Company	2,000	1,244	3,244	\$ (377,010)
Templeton Community Services District	250	156	406	\$ (30,575)
SMR Mutual Water Company (New)	0	80	80	\$ 1,458,099
County Service Area 10A (Cayucos)	25	15	40	\$ (16,739)
Bella Vista MHP LLC (Cayucos) (New)	0	10	10	\$ 209,867
<b>Totals</b>	<b>9,655</b>	<b>6,095</b>	<b>15,750</b>	<b>0</b>

#### *Amendments to Existing Contracts (Full Allocation)*

In accordance with the terms and conditions of Article 29 of the Nacimiento Project Water Delivery Entitlement Contracts, the existing participants have the right to purchase their proportionate share of the Nacimiento Project's unsubscribed Reserve Water (currently a total of 6,095 acre-feet). As indicated above, the existing participants have elected to exercise this right while at the same time permitting SMR Mutual Water Company and Bella Vista MHP LLC to obtain an entitlement to Nacimiento Project Water in the amounts set forth above. With the completion of these Amendments and the new Nacimiento Project Water Delivery Entitlement Contracts, no Reserve Water will remain.

Furthermore, the Contracts provide that the existing participants' right to Reserve Water is not discretionary on the part of the District, provided that the existing participants enter a contract that has terms no more favorable than any other participants, and pay their fair share of the

related costs. All of the existing participants have agreed to these terms. Therefore, the Board's actions with respect to amendments to existing water contracts is to confirm that the two provisional requirements (equal terms and fair share costs) are indeed complied with.

### *CEQA Requirements*

As noted above, the existing project participants have held the contractual rights to request all of the reserve water in the project since 2004. Consequently, the District does not have the discretion to deny the proposal from the existing participants (subject to the two provisional requirements of equal terms and fair share costs) CEQA section 21080 provides that CEQA applies to the discretionary actions of public agencies that might result in an effect on the environment. Since amending the Water Delivery Entitlement contracts of the existing project participants is not discretionary, CEQA does not apply to those actions. Therefore, the Addendum to the FEIR focuses on the actions that are discretionary, namely, the addition to two new participants: the SMR Mutual Water Company (Santa Margarita Ranch) and Bella Vista MHP LLC in Cayucos.

The Addendum also addresses the environmental effects that could result from County Service Area 10A in Cayucos increasing its allocation by 15 acre feet. This discretionary decision, which results in CEQA applying to the action, is on the part of the Board of Supervisors acting as the County (not the District). Sitting as the District on the other side of the contract the Board does not have the discretion to deny the Cayucos proposal. This situation is much like that of the other existing participants, each of which has made their own discretionary decision to exercise their pre-existing contractual rights. Consequently, each has included CEQA compliance in their decision making processes.

The Addendum to the FEIR was prepared and noticed to the public in January, 2016 (CEQA does not require an Addendum to a FEIR to be circulated for public comment; this action is optional on the part of the District).

## **II. Findings for Preparation of the Addendum for the Nacimiento Project Water Delivery Entitlement Contract between the District and the County of San Luis Obispo, acting on behalf of County Service Area 10, Zone A**

The Board of Supervisors of the County of San Luis Obispo make the following findings with respect to the applicability of the January 6, 2004 Nacimiento Water Project Final Environmental Impact Report and the December 2015, Nacimiento Water Project Addendum No. 3 to the Delivery Entitlement Contract between the San Luis Obispo County Flood Control and Water Conservation District and the County of San Luis Obispo, acting on behalf of County Service Area 10, Zone A:

1. Subsequent changes or additions proposed in the project after certification of the Final EIR for the Project do not require important revisions of the Final EIR because there are no new significant impacts not considered in the Final EIR for the Project.

2. Substantial changes have not occurred with respect to the circumstances under which the Project is being undertaken, and there are no new significant environmental impacts not covered in a previous EIR.
3. No new information of substantial importance has become available which would demonstrate the following:
  - a. The project will have one or more significant effects not discussed previously in the Final EIR;
  - b. Significant effects previously examined will be substantially more severe than shown in the Final EIR;
  - c. Mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the project; or
  - d. Mitigation measures or alternatives which were not previously considered in the Final EIR would substantially lessen one or more significant effects of the environment.
4. Only minor additions and changes have been addressed in the Project's Addendum No. 3, and these changes supply the additional technical information necessary to make the Project Final EIR adequate for the Project.